



## An outsider who is not a condominium owner can be appointed chairman of the assembly?

The Court of Appeal of Catanzaro addressed the issue of the non-condominium president and the possible consequences on the approved resolution.

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The 2nd paragraph of the art. 67avail. of act. cc provided as follows: if a floor or portion of a floor of the building belongs in undivided ownership to several people, they have the right to only one representative in the assembly who is designated by the co-owners concerned; failing that, the president will draw lots.

With the entry into force of the law 220/2012 the reference to the president has disappeared. However the new paragraph 6 of article 66 disp . att. cc imposes (it seems only for online meetings) the signing of the minutes by the chairman of the meeting considering it a formal requirement.

Regardless of the fluctuating attitude of the legislator, however, this figure **is necessary and constitutes the guarantee of correct and democratic management of the meeting** .

In fact, we must not forget that the president has, above all, the primary task of ascertaining the validity of the constitution of the assembly, and, therefore, on the one hand, carefully verifying that all the condominiums or the "right holders", - as prescribed by the new paragraph 6 of the art. 1136 of the civil code - have been regularly and promptly invited to the meeting, and, on the other hand, that the condominiums, present personally or by proxy, allow the constitutive and deliberative quorum to be reached (for this purpose the detailed and precise acquisition of all the elements proving the existence of the reported defect).

One wonders if, in the absence of particular provisions of the regulation, **the role of president can concern a person unrelated to the condominium?**

The question was addressed **by the Court of Appeal of Catanzaro in sentence no. 572 of 9 May 2023.**

### Can a stranger to the condominium be appointed chairman of the assembly? Done and decision

A condominium contested a condominium resolution which she considered invalid, among other things, **because it had been presided over by a person unrelated to the condominium.** The Tribunal rejected the plaintiff's claim.

The latter - which turned to the Court of Appeal - contested the sentence in the part in which the Court rejected the request for nullity and/or annulment of the resolution of the condominium assembly, because it was presided over by a non-condominium.

The second instance judges specified that, in itself, the possibly illegitimate appointment of the chairman of the meeting **certainly does not lead to the nullity of the relevant resolution** .

Moreover, in relation to the deduced circumstance, none of the hypotheses of annulment can be discerned either.

As underlined by the Court of Appeal, **in the absence of a precise regulatory provision** regarding the appointment of the president of the condominium assembly, **the faculty to appoint a person, not necessarily a condominium** , with the function of superordination to the correct



and orderly conduct of business.

Moreover, even if the president is not a condominium, it must be excluded that we can speak of **"improper maneuvers by subjects in conflict of interest"** : in fact, the nominee cannot exercise the right to vote and does not have a conflicting interest with respect to the interests of the condominium , being a third party and disinterested.

## Final considerations

The appointment of the chairman of the meeting **can be linked to the very nature of the meeting as a collegial body** , which suggests **that it acts under the direction of a chairman** , who ascertains its regular constitution, opens and regulates the discussion on the topics in the order of the day, calls the vote and declares the result, **allowing the assembly to express its will** .

It must be emphasized that the president, even in the absence of an express provision of the condominium regulation that enables him in this sense, **can establish the duration of each intervention** , provided that the relative measure is such as to ensure each condominium the possibility of expressing his reasons on all the points under discussion (Cass. civ. section II, 11/13/2009, n. 24132).

In any case - as the decision in question clarifies - the function of chairman, **if carried out by a person unrelated to the meeting, must be considered lawful**.

Source: <https://www.condominioweb.com/puo-essere-nominato-presidente-dellaassociazione-un-estraneo-non-condomino.20594#2>

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